

REFERENCE TITLE: mandatory control level; hearing

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## **HB 2453**

Introduced by  
Representative Konopnicki

AN ACT

AMENDING SECTIONS 20-488.05 AND 20-488.06, ARIZONA REVISED STATUTES; RELATING  
TO RISK-BASED CAPITAL FOR INSURERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-488.05, Arizona Revised Statutes, is amended to  
3 read:

4 20-488.05. Mandatory control level event

5 A. If a mandatory control level event occurs, the director shall take  
6 any actions that are necessary to place the insurer under regulatory control  
7 pursuant to chapter 1, article 2 and chapter 3, article 4 of this title. The  
8 mandatory control level event shall be deemed to be sufficient grounds for  
9 the director to take action under chapter 1, article 2 and chapter 3, article  
10 4 of this title, and the director has the rights, powers and duties with  
11 respect to the insurer that are set forth in chapter 1, article 2 and chapter  
12 3, article 4 of this title. If the director takes any action under this  
13 subsection pursuant to an adjusted RBC report, the insurer is entitled to the  
14 same protection that is afforded to insurers under chapter 1, article 2 and  
15 chapter 3, article 4 of this title.

16 B. Notwithstanding subsection A, the director may forgo action for up  
17 to ~~ninety~~ ONE HUNDRED TWENTY days after the mandatory control level event if  
18 the director finds there is a reasonable expectation that the mandatory  
19 control level event may be eliminated within the ~~ninety~~ ONE HUNDRED TWENTY  
20 day period.

21 Sec. 2. Section 20-488.06, Arizona Revised Statutes, is amended to  
22 read:

23 20-488.06. Hearings

24 A. An insurer has the right to a hearing to challenge any  
25 determination or action made or taken by the director on the occurrence of  
26 any of the following:

27 1. The notification by the director to the insurer of an adjusted RBC  
28 report.

29 2. The notification by the director to the insurer that both:

30 (a) The insurer's RBC plan or revised RBC plan is unsatisfactory.

31 (b) The notice constitutes a regulatory action level event with  
32 respect to the insurer.

33 3. The notification by the director to the insurer that the insurer  
34 has failed to adhere to its RBC plan or revised RBC plan and that the  
35 insurer's failure has a substantial adverse effect on the ability of the  
36 insurer to eliminate the company action level event with respect to the  
37 insurer in accordance with its RBC plan or revised RBC plan.

38 4. The notification by the director to an insurer of a corrective  
39 order.

40 B. The underlying decision or action that is the subject of any  
41 notification made by the director pursuant to subsection A of this section is  
42 an appealable agency action as defined in section 41-1092.

43 C. A hearing demanded by an insurer that is aggrieved by a decision or  
44 an action by the director pursuant to subsection A of this section is closed

1 to the public, unless a principal party to the hearing requests the hearing  
2 to be open to the public pursuant to section 20-164, subsection A.

3 D. The insurer shall request a hearing within ~~five~~ SEVEN BUSINESS days  
4 after receiving notice by the director under subsection A of this section.  
5 On receipt of the request for a hearing, the director shall set a date for  
6 the hearing at least ten days but not more than ~~thirty~~ TWENTY-ONE days after  
7 the date of receipt of the request.